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To provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1995

Mr. GOSS (for himself, Mr. QUILLEN, Mr. ENGEL, Mr. MILLER of Florida, Mrs. MEEK of Florida, Mr. TRAFICANT, Mr. STEARNS, Mr. ENGLISH of Pennsylvania, Mr. DEUTSCH, Mr. GEJDENSON, Mr. CALVERT, Ms. FURSE, Mr. BARTLETT of Maryland, Mr. STUDDS, Mrs. FOWLER, Mr. RAHALL, Mr. HASTINGS of Florida, Mr. NADLER, Mr. SHAYS, Mr. BECERRA, Mrs. SEASTRAND, and Mr. McHALE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ricky Ray Hemophilia
5 Relief Fund Act of 1995”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) approximately 1/2 of all individuals in the
4 United States who suffer from blood-clotting dis-
5 orders, such as hemophilia, were exposed, through
6 the use of blood-clotting agents, to human
7 immunodeficiency virus (HIV), which causes the
8 fatal illness known as acquired immune deficiency
9 syndrome (AIDS);

10 (2) the Federal Government has a shared re-
11 sponsibility with the blood-products industry for pro-
12 tecting the safety of the blood supply of the Nation
13 and for regulating the safety of blood-clotting
14 agents;

15 (3) blood and blood derivatives (including blood-
16 clotting agents) are subject to more stringent regula-
17 tion by the Federal Government than are most prod-
18 ucts regulated under the Federal Food, Drug, and
19 Cosmetic Act (21 U.S.C. 301 et seq.), because blood
20 and blood derivatives are subject to regulation under
21 the Public Health Service Act (42 U.S.C. 201 et
22 seq.) as well as the Federal Food, Drug, and Cos-
23 metic Act (21 U.S.C. 301 et seq.);

24 (4) individuals with blood-clotting disorders,
25 such as hemophilia, were at an unusually high and
26 largely preventable risk of contracting HIV during

1 the period beginning in 1980 (when technology be-
2 came available to pasteurize blood-clotting agents)
3 and ending in 1987 (when the last mass recall of
4 contaminated anti-hemophilic factor (AHF) oc-
5 curred);

6 (5) during the period beginning in 1980 and
7 ending in 1987, despite growing concerns about
8 blood-borne viruses such as hepatitis and HIV, the
9 Federal Government did not require the blood-prod-
10 ucts industry to use available technology to ensure
11 the safety of blood products that were allowed on the
12 market for sale to individuals with blood-clotting dis-
13 orders, such as hemophilia;

14 (6) the Federal Government did not require
15 that, to allow for fully informed decisionmaking re-
16 garding treatment options, the blood-products indus-
17 try provide directly to individuals with blood-clotting
18 disorders, such as hemophilia, all available informa-
19 tion about the risks of contaminated blood products;

20 (7) the Federal Government failed to fulfill its
21 responsibility to properly regulate the blood-products
22 industry, and thus exposed individuals with blood-
23 clotting disorders, such as hemophilia, and their
24 families to potential infection with a fatal disease;

1 (8) 17 other developed countries have estab-
2 lished government compensation programs to assist
3 individuals with blood-clotting disorders, such as he-
4 mophilia, who were infected with HIV;

5 (9) individuals with blood-clotting disorders,
6 such as hemophilia, who have HIV infections incur
7 annual medical costs that often exceed \$150,000,
8 due to the expense of the necessary medications and
9 the complications caused by the combination of the
10 2 illnesses;

11 (10) Ricky Ray was born with hemophilia and,
12 like his 2 younger brothers and thousands of others,
13 became infected with the deadly HIV through use of
14 contaminated blood-clotting products;

15 (11) Ricky Ray and his family have brought na-
16 tional attention to the suffering of individuals with
17 blood-clotting disorders, such as hemophilia, and
18 their families, who have been devastated by HIV;
19 and

20 (12) Ricky Ray died at the age of 15 on De-
21 cember 13, 1992, of hemophilia-associated AIDS,
22 and this Act should bear his name.

23 (b) PURPOSE.—It is the purpose of this Act to estab-
24 lish a procedure to make partial restitution to individuals
25 who were infected with HIV after treatment, during the

1 period beginning in 1980 and ending in 1987, with con-
2 taminated blood products.

3 **SEC. 3. TRUST FUND.**

4 (a) ESTABLISHMENT.—There is established in the
5 Treasury of the United States a trust fund to be known
6 as the “Ricky Ray Hemophilia Relief Fund”, which shall
7 be administered by the Secretary of the Treasury.

8 (b) INVESTMENT OF AMOUNTS IN FUND.—Amounts
9 in the Fund shall be invested in accordance with section
10 9702 of title 31, United States Code, and any interest on
11 and proceeds from any such investment shall be credited
12 to and become part of the Fund.

13 (c) AVAILABILITY OF FUND.—Amounts in the Fund
14 shall be available only for disbursement by the Attorney
15 General under section 5.

16 (d) TERMINATION.—The Fund shall terminate upon
17 the expiration of the 5-year period beginning on the date
18 of the enactment of this Act. If all of the amounts in the
19 Fund have not been expended by the end of the 5-year
20 period, investments of amounts in the Fund shall be liq-
21 uidated, the receipts of such liquidation shall be deposited
22 in the Fund, and all funds remaining in the Fund shall
23 be deposited in the miscellaneous receipts account in the
24 Treasury of the United States.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to the Fund to carry out
3 this Act \$1,000,000,000.

4 **SEC. 4. CLAIMS RELATING TO BLOOD-CLOTTING DIS-**
5 **ORDERS AND HIV.**

6 Any individual who submits to the Attorney General
7 written medical documentation that the individual has an
8 HIV infection shall receive \$125,000, from amounts avail-
9 able in the Fund, if each of the following conditions is
10 met:

11 (1) CHARACTERISTICS OF INDIVIDUAL.—The
12 individual is described in 1 of the following subpara-
13 graphs:

14 (A) The individual has any form of blood-
15 clotting disorder, such as hemophilia, and was
16 treated with blood-clotting agents (in the form
17 of blood components or blood products) at any
18 time during the period beginning on January 1,
19 1980, and ending on December 31, 1987.

20 (B) The individual—

21 (i) is the lawful spouse of an individ-
22 ual described in subparagraph (A); or

23 (ii) is the former lawful spouse of an
24 individual described in subparagraph (A)
25 and was the lawful spouse of the individual

1 at any time after a date, within the period
2 described in such subparagraph, on which
3 the individual was treated as described in
4 such subparagraph.

5 (C) The individual acquired the HIV infec-
6 tion through perinatal transmission from a par-
7 ent who is an individual described in subpara-
8 graph (A) or (B).

9 (2) CLAIM.—A claim for the payment is filed
10 with the Attorney General by or on behalf of the in-
11 dividual.

12 (3) DETERMINATION.—The Attorney General
13 determines, in accordance with section 5(b), that the
14 claim meets the requirements of this Act.

15 **SEC. 5. DETERMINATION AND PAYMENT OF CLAIMS.**

16 (a) ESTABLISHMENT OF FILING PROCEDURES.—The
17 Attorney General shall establish procedures under which
18 individuals may submit claims for payment under this Act.
19 The procedures shall include a requirement that each
20 claim filed under this Act include written medical docu-
21 mentation that the relevant individual described in section
22 4(1)(A) has a blood-clotting disorder, such as hemophilia,
23 and was treated as described in such section.

1 (b) DETERMINATION OF CLAIMS.—For each claim
2 filed under this Act, the Attorney General shall determine
3 whether the claim meets the requirements of this Act.

4 (c) PAYMENT OF CLAIMS.—

5 (1) IN GENERAL.—The Attorney General shall
6 pay, from amounts available in the Fund, each claim
7 that the Attorney General determines meets the re-
8 quirements of this Act.

9 (2) PAYMENTS IN CASE OF DECEASED INDIVID-
10 UALS.—

11 (A) IN GENERAL.—In the case of an indi-
12 vidual referred to in section 4 who is deceased
13 at the time that payment is made under this
14 section on a claim filed by or on behalf of the
15 individual, the payment shall be made to the es-
16 tate of the individual, if such an estate exists.
17 If no such estate exists, the payment may be
18 made only as follows:

19 (i) If the individual is survived by a
20 spouse who is living at the time of pay-
21 ment, the payment shall be made to such
22 surviving spouse.

23 (ii) If the individual is not survived by
24 a spouse described in clause (i), the pay-
25 ment shall be made in equal shares to all

1 children of the individual who are living at
2 the time of the payment.

3 (iii) If the individual is not survived
4 by a person described in clause (i) or (ii),
5 the payment shall be made in equal shares
6 to the parents of the individual who are
7 living at the time of payment.

8 (B) FILING OF CLAIM BY ESTATE OR SUR-
9 VIVOR.—If an individual eligible for payment
10 under section 4 dies before filing a claim under
11 this Act—

12 (i) the estate of the individual, if such
13 an estate exists, may file a claim for pay-
14 ment under this Act on behalf of the indi-
15 vidual; or

16 (ii) if no such estate exists, a survivor
17 of the individual may file a claim for pay-
18 ment under this Act on behalf of the indi-
19 vidual if the survivor may receive payment
20 under subparagraph (A).

21 (C) DEFINITIONS.—For purposes of this
22 paragraph:

23 (i) The term “spouse” means an indi-
24 vidual who was lawfully married to the rel-
25 evant individual.

1 (ii) The term “child” includes a recog-
2 nized natural child, a stepchild who lived
3 with the relevant individual in a regular
4 parent-child relationship, and an adopted
5 child.

6 (iii) The term “parent” includes fa-
7 thers and mothers through adoption.

8 (3) TIMING OF PAYMENT.—The Attorney Gen-
9 eral may not make a payment on a claim under this
10 Act before the expiration of the 90-day period begin-
11 ning on the date of the enactment of this Act or
12 after the expiration of the 5-year period beginning
13 on the date of the enactment of this Act.

14 (4) CHOICE OF PAYMENT METHODS.—An indi-
15 vidual whom the Attorney General determines to be
16 entitled to a payment under subsection (c)(1) may
17 choose to receive the payment in the form of—

18 (A) a lump sum of \$125,000, which shall
19 be paid not later than 90 days after the Attor-
20 ney General determines that the individual is
21 entitled to receive payment under subsection
22 (c)(1); or

23 (B) 4 subpayments, of which—

24 (i) the 1st subpayment shall consist of
25 \$50,000 and shall be paid not later than

1 90 days after the Attorney General deter-
2 mines that the individual is entitled to re-
3 ceive payment under subsection (c)(1); and
4 (ii) the 2d, 3d, and 4th subpayments
5 shall each consist of \$25,000 and shall
6 each be paid upon the expiration of the 6-
7 month period beginning on the date of the
8 preceding subpayment.

9 (d) ACTION ON CLAIMS.—The Attorney General shall
10 complete the determination required by subsection (b) re-
11 garding a claim not later than 90 days after the claim
12 is filed under this Act.

13 (e) PAYMENT IN FULL SETTLEMENT OF CLAIMS
14 AGAINST UNITED STATES.—Payment under this Act,
15 when accepted by an individual described in section 4 or
16 by the estate of or a survivor of such an individual on
17 behalf of the individual, shall be in full satisfaction of all
18 claims of or on behalf of the individual against the United
19 States (but not against any other person or entity) that
20 arise out of both an HIV infection and treatment, at any
21 time during the period beginning on January 1, 1980, and
22 ending on December 31, 1987, with blood-clotting agents
23 (in the form of blood components or blood products).

24 (f) ADMINISTRATIVE COSTS NOT PAID FROM
25 FUND.—No costs incurred by the Attorney General in car-

1 rying out this Act may be paid from the Fund or set off
2 against, or otherwise deducted from, any payment made
3 under subsection (c)(1).

4 (g) TERMINATION OF DUTIES OF ATTORNEY GEN-
5 ERAL.—The duties of the Attorney General under this sec-
6 tion shall cease when the Fund terminates.

7 (h) TREATMENT OF PAYMENTS UNDER OTHER
8 LAWS.—A payment under subsection (c)(1) to an individ-
9 ual or an estate—

10 (1) shall be treated for purposes of the internal
11 revenue laws of the United States as damages re-
12 ceived on account of personal injuries or sickness;
13 and

14 (2) shall not be included as income or resources
15 for purposes of determining the eligibility of the in-
16 dividual to receive benefits described in section
17 3803(c)(2)(C) of title 31, United States Code, or the
18 amount of such benefits.

19 (i) USE OF EXISTING RESOURCES.—The Attorney
20 General should use funds and resources available to the
21 Attorney General to carry out the functions of the Attor-
22 ney General under this Act.

23 (j) REGULATORY AUTHORITY.—The Attorney Gen-
24 eral may issue regulations necessary to carry out this Act.

1 (k) TIME OF ISSUANCE OF REGULATIONS, GUIDE-
2 LINES, AND PROCEDURES.—The initial regulations, guide-
3 lines, and procedures to carry out this Act shall be issued
4 not later than 90 days after the date of the enactment
5 of this Act.

6 (l) JUDICIAL REVIEW.—An individual whose claim
7 for compensation under this Act is denied may seek judi-
8 cial review solely in a district court of the United States.
9 The court shall review the denial on the administrative
10 record and shall hold unlawful and set aside the denial
11 if the denial is arbitrary, capricious, an abuse of discre-
12 tion, or otherwise not in accordance with law.

13 **SEC. 6. LIMITATION ON TRANSFER AND NUMBER OF**
14 **CLAIMS.**

15 (a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—
16 A claim under this Act shall not be assignable or transfer-
17 able.

18 (b) 1 CLAIM WITH RESPECT TO EACH VICTIM.—
19 With respect to each individual described in subparagraph
20 (A), (B), or (C) of section 4(1), the Attorney General may
21 not pay more than 1 claim filed to receive compensation
22 under this Act for the harm suffered by the individual.

1 **SEC. 7. LIMITATIONS ON CLAIMS.**

2 The Attorney General may not pay any claim filed
3 under this Act unless the claim is filed within 3 years after
4 the date of the enactment of this Act.

5 **SEC. 8. CERTAIN CLAIMS NOT AFFECTED BY PAYMENT.**

6 A payment made under section 5(c)(1) shall not be
7 considered as any form of compensation, or reimburse-
8 ment for a loss, for purposes of imposing liability on the
9 individual receiving the payment, on the basis of such re-
10 ceipt, to repay any insurance carrier for insurance pay-
11 ments or to repay any person on account of worker's com-
12 pensation payments. A payment under this Act shall not
13 affect any claim against an insurance carrier with respect
14 to insurance or against any person with respect to work-
15 er's compensation.

16 **SEC. 9. LIMITATION ON AGENT AND ATTORNEY FEES.**

17 Notwithstanding any contract, the representative of
18 an individual may not receive, for services rendered in con-
19 nection with the claim of an individual under this Act,
20 more than 5 percent of a payment made under this Act
21 on the claim. Any such representative who violates this
22 section shall be fined not more than \$50,000.

23 **SEC. 10. DEFINITIONS.**

24 For purposes of this Act:

25 (1) The term "AIDS" means acquired immune
26 deficiency syndrome.

1 (2) The term “Fund” means the Ricky Ray
2 Hemophilia Relief Fund.

3 (3) The term “HIV” means human
4 immunodeficiency virus.

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